

REMARKS

Claims 9-31 were previously canceled in Applicant's Amendment A, filed April 1, 2003. Applicant's Amendment C, filed June 21, 2004, inadvertently numbered newly introduced claims as claims 9-11 rather than as claims 32-34. Claims 9-11 have been renumbered as claims 32-34.

Claims 9-32 have been canceled.

Claims 1-8, 33 and 34 remain pending in the prosecution. Of these, claims 33 and 34 are currently amended.

Claims 1-11 are rejected under 35 U.S.C. §102(e) based on Epstein et al. U.S. 5,782,860 (Epstein '860). Epstein '860 discloses a closure device in which a structure 32 is arranged for expansion with a blood vessel. The structure 32 includes a flexible membrane 36 that is substantially impermeable to blood and other liquids (see col. 4, lines 41-55). Epstein '860 therefore teaches away from the device claimed in independent claim 1 (and associated dependent claims 2-8) in which the structure comprises an open configuration allowing blood flow through the wall of the structure. In Epstein '860, the biological sealant components are introduced through introducer means 81 for passage through tubular member 91 and via flow passage 92 through lumen 27 and exit through external port 28 of the second lumen (see col. 5, lines 33-48). As defined by amended claim 33, the cited reference does not teach or suggest a mixing chamber including an interior mixing structure. In the device of Epstein '860, the closure composition exits through external port 28, i.e., upstream of structure 32. In the Office Action, the Examiner states that "item 36 of Epstein can be broadly characterized as a closure composition test chamber." Because the closure composition in the Epstein '860 device never enters the structure 32/36, the structure 32/36 cannot serve as a closure composition test chamber, as defined by amended claim 34. Furthermore, structure 32/36 in the Epstein '860 device is positioned within a blood vessel during introduction of the closure composition and would thus not be accessible to the physician for use as a test chamber.

Claims 33 and 34 have been additionally amended to more clearly state the subject matter being claimed. In particular, the element "the structure comprising an open configuration allowing blood flow through the structure" has been deleted.

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Amendment D

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Reconsideration in view of the foregoing amendments and remarks and allowance of claims 1-8, 33 and 34 is respectfully requested.

Respectfully Submitted,

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